

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§	
Plaintiff	§	
	§	
v.	§	CIVIL ACTION NO.
	§	
10 FIREARMS AND 2402 ROUNDS	§	
OF AMMUNITION (Listed Below),	§	
	§	
Defendants	§	

COMPLAINT FOR FORFEITURE IN REM

The United States files this action for forfeiture *in rem* and alleges upon information and belief:

Nature of the Action

1. This is an action to forfeit firearms to the United States pursuant to 18 U.S.C. 924(d)(1).

Defendant Property

2. The Defendants are the following:
- a. a Colt M4 Rifle, .223 caliber (S.N.: LE507281);
 - b. 29 Rounds of Hornady Ammunition, .223 caliber;
 - c. a Mossberg 500 shotgun, 12 gauge (S.N.: U546744);
 - d. a Diamondback Arms Inc. DB-15 Pistol, .223 caliber (SN: DB1538654);
 - e. 19 Rounds of LC (Lake City) Ammunition., .223 caliber;

- f. A CBC (Companhia Brasileira De Cartuchos) 715T Rifle, .22 caliber (SN: ELD3368661);
- g. 20 Rounds of Super Vel Ammunition, .22 caliber;
- h. a Spike's Tactical LLC ST15 Rifle, Multi caliber (SN: PD004433);
- i. a Palmetto State Armory PA-15 Rifle, Multi caliber (SN: LW267748);
- j. a Mossberg Patriot Rifle, .30-06 caliber (SN: MPR054138);
- k. 9 Rounds Hornady Ammunition, .30-06 caliber;
- l. a Ruger SR1911 Pistol, .45 caliber (SN: 67247991);
- m. 7 Rounds of Barnes Bullets Ammunition, .45 caliber;
- n. a Glock GMBH 30 Pistol, .45 caliber (SN: XYS701);
- o. 11 Rounds of Barnes Bullets Ammunition, .45 caliber;
- p. a Phoenix Arms Co. Raven Pistol, .25 caliber (SN: 3079228);
- q. 6 Rounds of Unknown Ammunition, .25 caliber;
- r. 2307 Rounds of assorted ammunition, unknown caliber.

(the "Defendant Firearms and Ammo").

3. On or about August 24, 2017, law enforcement officers seized the Defendant Firearms and Ammo from a house in Kingswood, Texas, and the Defendant Firearms and Ammo are being stored in the Houston, Texas, area.

4. Reyes R. Hernandez ("Hernandez") filed a claim to the Defendant Firearms and Ammo with the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), which has halted the agency's forfeiture proceeding of the Defendant Firearms and Ammo. Hernandez claims that he is the owner of the Defendant Firearms and Ammo.

5. Defendant Firearms and Ammo have each been shipped or transported in interstate commerce.

Jurisdiction and Venue

6. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355.

7. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1355(b)(1), 1391(b), and 1395.

Statutory Basis for Forfeiture

8. The Defendant Firearms are subject to forfeiture under 18 U.S.C. § 924(d)(1), which provides for the forfeiture of any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. § 922(g). Under 922(g)(3), it is unlawful for a person who is an unlawful user of or addicted to any controlled substance to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

9. Title 18, United States Code, Section 924(d)(1) also provides for the forfeiture of any firearm or ammunition intended to be used in a violation of 18 U.S.C. § 922(a)(1)(A). Under 922(a)(1)(A), it is unlawful for a person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce.

Facts

10. On or about June 7, 2017, in the Houston area, Hernandez knowingly sold a firearm to an individual knowing and having reasonable cause to believe that that individual had been convicted of a crime punishable by imprisonment for a term exceeding one year, a violation of Title 18, United States Code, Section 922(d)(1).

11. On or about August 16, 2017, a federal grand jury in the Houston Division of the United States District Court for the Southern District of Texas returned an indictment charging Hernandez with a violation of 18 U.S.C. § 922(d), in case number 4:17-CR-500, *United States v. Reyes Hernandez*.

12. On or about August 24, 2017, law enforcement agents executed a federal search warrant at Hernandez's residence in Kingwood, Texas. During the search of Hernandez's residence, agents found and seized the Defendant Firearms and Ammo, which were in Hernandez's possession.

13. At the time of the search of his residence on or about August 24, 2017, Hernandez was an unlawful user of and/or addicted to marijuana, a Schedule I controlled substance.

14. Prior to August 24, 2017, Hernandez engaged in the business of dealing in firearms. During that time, Hernandez did not hold a license authorizing him to engage in the business of dealing in firearms.

15. Hernandez intended to use The Defendant Firearms and Ammo in a violation of 18 U.S.C. § 922(a)(1)(A).

16. Under these circumstances, the Defendant Firearms and Ammo are subject to forfeiture because they were involved in a knowing violation of 18 U.S.C. § 922(g), and because they were intended to be used in a violation of 18 U.S.C. § 922(a)(1)(A).

Notice to Any Potential Claimants

YOU ARE HEREBY NOTIFIED that if you assert an interest in Defendant Firearms and Ammo which is subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in Rule G of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions. A verified claim must be filed no later than thirty-five (35) days from the date this Complaint has been sent in accordance with Rule G(4)(b).

An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty-one (21) days after filing the claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas at United States Courthouse, 515 Rusk Avenue, Houston, Texas 77002, and a copy must be served upon the undersigned Assistant United States Attorney at United States Attorney's Office, 1000 Louisiana, Suite 2300, Houston, Texas 77002.

Prayer

Wherefore, the United States of America prays that judgment of forfeiture be entered against the Defendant Firearms and Ammo in favor of the United States of America

under 18 U.S.C. § 924(d)(1) in addition to such costs and other relief to which the United States of America may be entitled.

Respectfully submitted,

Ryan K. Patrick
United States Attorney

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E. Vincent Carroll
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Verification

I, Michael A. Gonzalez, a Special Agent employed by the United States Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), hereby verify under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the facts set forth in the foregoing Complaint For Forfeiture In Rem are based upon either personal knowledge or from information, reports, or records obtained during investigation and from other law enforcement personnel, and are true and correct to the best of my knowledge and belief.

Executed on the 9th Day of February, 2018.

A handwritten signature in black ink, appearing to read 'Michael A. Gonzalez', written over a horizontal line.

Michael A. Gonzalez

Special Agent

U.S. Bureau of Alcohol, Tobacco, Firearms, &
Explosives